

PART SEVENTEEN – PROPERTY MAINTENANCE CODE

CHAPTER 1707

BASIC STANDARDS FOR PROPERTY MAINTENANCE

1707.21 CHRONIC NUISANCE AT A RESIDENTIAL STRUCTURE, NON-RESIDENTIAL STRUCTURE OR PREMISES

(a) The following maintenance, health, safety or sanitation violation(s) occurring at a residential structure, non-residential structure or premises, are hereby declared to be a public nuisance:

(1) Any maintenance, health, safety or sanitation violation(s) set forth in Chapter 1707 of the Parma Codified Ordinances.

(b) The Building Commissioner or his/her designee, after issuing a second Notice of Violation finding that a public nuisance activity declared in this section has occurred at the residential structure, non-residential structure or premises (hereinafter “nuisance property”) within any twelve-month period, may cause a written notice and order (hereinafter “notice”) be served on the owner of the property declaring that the property is a nuisance property. The notice shall set forth the nature of the public nuisance(s), and state that the owner of the nuisance property may avoid being charged for the abatement of the public nuisance as set forth in division (d) of this section and/or by taking the necessary action(s) to eliminate the public nuisance. The notice shall further state that if a third or subsequent nuisance activity as declared in the section occurs within twelve months of the previous two nuisance activities that the owner of the nuisance property may be assessed a \$100 fee and the costs of abating the third or subsequent nuisance(s) if the City’s employees and/or City hired contractor abates the public nuisance. The notice shall further state that the costs of such abatement, if not paid by the owner of the nuisance property, shall be assessed on the nuisance property. Notice shall be served as set forth in division (g).

(c) If within twelve months after the previous two Notices of Violation referred to in division (b) of this section have been issued, a third Notice of Violation or any thereafter is issued for a public nuisance activity as declared in this section, the City may abate the public nuisance by using City employee(s) and/or City hired contractor(s), and the costs of such abatement shall be assessed on the nuisance property in the same manner as set forth in division (h) of this section, and the costs shall be calculated as set forth in division (e) of this section. The City shall provide written notification of assessment (“notification of assessment”) to the owner of the nuisance property of the City’s intent to assess the costs of abatement against the owner’s property at least thirty days before such costs are certified to the County for assessment against the property, and such notification shall contain a description of the public nuisance and the cost



to abate the public nuisance. Notification shall be served as set forth in division (g) of this section.

(d) The owner of a nuisance property who receives a notice declaring his/her property a nuisance property or a notification of assessment from the Building Commissioner or his/her designee pursuant to this section may appeal such notice and/or notification of assessment by submitting a written request for reconsideration to the Building Commissioner within thirty days of the date of the notice and/or a notification of assessment. If the Building Commissioner finds that the facts presented do not support the declaration of a public nuisance and/or notification of assessment, the Building Commissioner shall rescind the notice and/or notification of assessment. Otherwise the Building Commissioner shall deny the request and refer the appeal for hearing by the Board of Building Appeals. Any such appeal shall not stay any actions to abate the public nuisance by the City. The City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the nuisance property or notification of assessment, whichever is applicable, is justified. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

(1) He/she was not the owner at the time of any of the public nuisance activity that is the basis of the notice; or

(2) He/she had knowledge of the public nuisance activity, but has promptly and vigorously taken all actions necessary to abate each public nuisance.

(3) He/she had no knowledge of the public nuisance activity and could not, with reasonable care and diligence, have known of the public nuisance activity; and upon receipt of the notice declaring the property a nuisance property, he/she promptly took all actions necessary to abate the public nuisance.

(e) The owner of a nuisance property shall be assessed \$100 fee each time the owner's property is declared a public nuisance. If the City abates the public nuisance activity on the nuisance property the cost of the abatement shall be assessed based upon the hourly wage of the City employee(s) used to abate the nuisance plus 75% multiplied by the number of hours the City employee(s) were required to expend to abate the public nuisance and/or 75% multiplied by the fee charged by the contractor(s) hired by the City to abate the public nuisance activity.

(f) The notice declaring a nuisance property or the notification of assessment by the City on a nuisance property, does not affect or limit the City's right or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.

(g) The notice declaring a nuisance property or the notification of assessment may be served by delivering it personally to the owner or leaving it at the owner's usual place of business or residence, or by posting it in a conspicuous place on the residential structure and/or premises involved, or by mailing it to the owner, or by publishing it once in a newspaper of general circulation within the City if the notice cannot be served in any other preceding manner.

(h) If the public nuisance is not abated within the required time, the Safety Director may cause its abatement and report the costs to the City Auditor who shall certify the costs together with a 10% penalty to the County Fiscal Officer for placement on the tax duplicate to be collected as other taxes for return to the City. If the owner of the nuisance property is ordered to abate the public nuisance or to pay to the City the estimated cost of the abatement and fails to comply with such order, such failure shall be considered a first-degree misdemeanor and, upon a plea of guilty or conviction thereof, shall be punished in accordance with Section 698.02 of the Codified Ordinances. Each day of violation shall be considered a separate offense.